

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** 07/05/2012  
**POSITION:** Neutral, note concerns

**BILL NUMBER:** SB 979  
**AUTHOR:** Vargas, Juan

### **BILL SUMMARY:** Financial Institutions: Internet Posting of Enforcement Actions

This bill requires the Department of Financial Institution's (DFI) Commissioner to make public on its Internet web site all final formal actions brought against DFI-regulated entities that violate specified Financial Code sections.

### **FISCAL SUMMARY**

DFI indicated that by making formal final enforcement actions public, it anticipates an increase in the number of appeals and administrative hearings, at an estimated cost of \$30,000 to \$90,000 annually. DFI also noted an estimated annual cost of \$75,000 associated with creating and maintaining an additional website page.

### **COMMENTS**

The Department of Finance is neutral on this bill, however we note the following concerns:

- The provisions of this bill could provoke regulated entities to appeal or refuse to settle enforcement actions due to public scrutiny, therefore undermining the DFI's efforts in resolving enforcement actions in the most cost-effective manner.
- The bill would result in additional special fund costs not reflected in the 2012 Budget Act.

### **ANALYSIS**

#### 1. Programmatic Analysis

**Existing law** requires DFI to regulate various banks, credit unions, financial and money service businesses, trust companies, and money transmitters. As part of its regulatory duties, DFI conducts regular examinations of its licensees, and if necessary takes formal or informal enforcement actions to ensure licensees are operating in accordance with state law. The more serious violations require formal action and include:

- Ordering cease and desist orders
- Removing a person from office
- Revoking or suspending a license
- Taking possession of a property or business
- Imposing civil penalties on a licensee
- Referring a licensee to the Attorney General for criminal prosecution

Analyst/Principal Matt Almy	Date	Program Budget Manager Kristin Shelton	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

## AUTHOR

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### ANALYSIS (continued)

A licensee who is assessed a penalty can appeal DFI's proposed action. The formal action is not considered final until the licensee either waives their right to an appeal or exhausts its administrative appeal rights.

**This bill** would require DFI to make public on its Internet website all final formal actions brought against DFI-regulated entities that violate specified Financial Code sections. DFI can delay the publication of a final enforcement action for a reasonable time if the Commissioner declares in writing that the publication of the final enforcement action would affect the safety or soundness of the financial institution subject to the order or decision. The requirements imposed by this bill are consistent with federal transparency policies.

In addition, if the Commissioner makes a determination that the publication of a final order or decision would identify the information of customer of the subject institution than the Commissioner may redact that information from the order.

## 2. Fiscal Analysis

When DFI imposes an action against a licensee, in nearly all cases, the licensee consents to the action. DFI's current practice is to consider such consent actions confidential and therefore, consent actions are not made public. DFI indicated that by making formal final enforcement actions public, the licensee is less likely to consent, which will result in two to six additional administrative hearings per year at an estimated cost of \$30,000 to \$90,000. DFI also noted an estimated annual cost of \$75,000 associated with creating and maintaining an additional website page.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)				
	LA	(Dollars in Thousands)				
	CO	PROP				Fund
	RV	98	FC	2012-2013 FC	2013-2014 FC	2014-2015 Code
2150/Finan Instit	SO	No	A	-- C	82-129 C	82-129 0298
2150/Finan Instit	SO	No	A	-- C	23-36 C	23-36 0299
<u>Fund Code</u>	<u>Title</u>					
0298	Financial Institutions Fund					
0299	Credit Union Fund					